

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 1999-03**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-019-99**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES            SECRETARY OF STATE FILING FORM**

**YES            DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**YES            ADOPTED BY COMMISSION**

**AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

### State Environmental Commission

Classification [ ] Proposed [ ] Adopted By Agency [xx] Temporary [ ] Emergency [ ]

**Brief description of action:** **Petition 1999-03 (R-019-99)** is a permanent amendment to NAC 445B. The regulation amended NAC 445B.319, 445B.327 and 445B.331 by increasing air quality operating permit fees for administrative amendments, Class I and II operating permits and change of location permits. The regulation added new fees for Prevention of Significant Deterioration (PSD) permits and major revisions to PSD permits. The regulation increased the annual emission fees and annual maintenance fees for all stationary sources. Also amended was the addition of a fee category for "Periodic Monitoring Recommendations" and a inclusion of an annual maintainence fee for "surface disturbances".

**Authority citation other than 233B:** NRS 445B.210 and 445B.300

**Notice date:** November 10, November 17 and November 24, 1998 and August 10, August 18 and August 26,1999.

**Hearing date:** December 9, 1998 (Temporary) and September 9, 1999 (Permanent)

**Date of Adoption of Agency:** December 9, 1998 (Temporary) and September 9, 1999 (Permanent)

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PERMANENT PETITION 1999-03 (R-019-99)  
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B. This permanent regulation deals with amendments to the air quality operating permit program fees.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

**Petition 1999-03 (R-019-99)**, was noticed three (3) times: November 10th, 17th and 24th, 1998 as a temporary regulation and on August 10, 18 and 26, 1999 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. Regulatory workshops were held on October 28, 1998 in Reno, October 29, 1998 in Las Vegas and November 9, 1998 in Elko. An Additional workshop was held on August 4, 1999. The temporary regulation was adopted on December 9, 1998 and the permanent regulation on September 9, 1999 by the State Environmental Commission. No public oral testimony was received on this permanent regulation. No written comments were received from the public hearing during adoption of the permanent regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**2. The number persons who:**

(a)	Attended each hearing;	30
(b)	Testified at each hearing;	6
(c)	Submitted to the agency written comments:	6

**3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices. Extensive comments regarding the fee structure were received during the public workshops. Issues at the workshop were addressed by modification to the regulations. Oral testimony in support of the permanent regulation was received from the Nevada Mining Association, the Nevada Manufacturers Association, and Southern California Edison. Oral testimony was received from various small businesses. These small businesses expressed the need for more flexibility in the fee structure to respond to small business needs. While no action was taken to amend the regulation, the Commission requested that the Division of Environmental Protection develop a regulation with a fee structure tailored to businesses of small size and minor air quality emissions. Written testimony

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supportive of the permanent regulation was received from the Nevada Mining Association, Placer Dome U.S. Inc., Southern California Edison, Round Mountain Gold Corporation, Independence Mining Company (exhibit 4). Concern focused on the necessity for an equitable and stable fee structure. It was requested that a separate fee be established that focuses on amending permits for air quality monitoring requirements. The Commission responded with an additional reduced fee to deal with the aforementioned request. One small business submitted written comments, requesting that small businesses with minor emissions have lower fees. As stated above the Commission directed the Division of Environmental Protection to develop a sub-class of fees for small stationary sources. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

### **4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted by the State Environmental Commission on September 9, 1999 with amendments to the regulation in response to business concerns.

### **5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

The permanent regulation is anticipated to have a significant economic impact on businesses in Nevada. The proposed fees will increase annual cost for all stationary sources regulated by the state by approximately \$ 1.1 million. The impact on each stationary source will vary widely depending upon the number of tons of air pollutants emitted by the sources. One stationary source will realize a substantial increase in annual fees due to the volume of their emissions. Fees for applications will also substantially increase. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

### **6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement.

### **7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

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**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The regulations are no more stringent than federal regulations.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The regulation increases air quality operating permit fees. The fees will pay for the State's air pollution control program, including staffing and operating costs. The fee structure will generate approximately \$ 1.9 million. The fees will financially support the Bureau of Air Quality's legislatively approved budget in the 2000-2001 biennium.

**END OF FILING STATEMENT FOR 1999-03 (R-019-99)**

# ADOPTED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R019-99

Explanation: Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted. Language in *italics and underscored* is new material added during adoption of the regulation.

AUTHORITY: §§1-3, NRS 445B.210 and NRS 445B.300.

**Section 1:** NAC 445B.319 is hereby amended to read as follows:

445B.319 1. The holder of an operating permit may request or the director may initiate an administrative amendment of an operating permit to:

- (a) Correct typographical errors;
- (b) Identify a change in the name, address or telephone number of any person identified in the operating permit, or provide a similar minor administrative change at the stationary source.
- (c) Require more frequent monitoring or reporting by the holder of the operating permit;
- (d) Add the serial numbers of specific pieces of equipment which were not available at the time of the issuance of or revision of the operating permit; or
- (e) Allow for a change in ownership or operational control of a stationary source if the director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the director a written agreement specifying a date for the transfer of responsibility for the operating permit and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.

2. A holder of an operating permit must request an administrative amendment on an application provided by the director. The application must be accompanied by a fee ~~of \$25.~~ *in the amount specified in NAC 445B.327.*

3. The director shall:

- (a) Issue or deny an application for an administrative amendment within 30 days after receipt of the application.
- (b) Send a copy of the administrative amendment to the administrator.

**Section 2:** NAC 445B.327 is hereby amended to read as follows:

445B.327 1. The fees for an operating permit are as follows:

(a) Class I operating permit . . . . .	<del>[\$14,500]</del>	<i>\$30,000</i>
(b) Significant revision of a Class I operating permit . .	<del>[\$7,500]</del>	<i>20,000</i>
(c) Minor revision of a Class I operating permit . . . . .	<del>[\$1,500]</del>	<i>5,000</i>
(d) Renewal of a Class I operating permit . . . . .	5,000	
(e) Class II operating permit . . . . .	<del>[\$1,800]</del>	<i>3,000</i>
(f) Revision of a Class II operating permit . . . . .	<del>[\$900]</del>	<i>2,000</i>
(g) Renewal of a Class II operating permit . . . . .	<del>[\$700]</del>	<i>2,000</i>

(h) Class II general permit ..... ~~100~~ 400

***(I) Revision of any operating permit to make the permit consistent with the Division's "Periodic Monitoring Recommendations"..... 1,000***

***(j) Administrative amendment of an operating permit 200***

An applicant must pay the entire fee when he submits an application to the director.

2. ***If a stationary source is subject to participation in the program for the prevention of significant deterioration of air quality pursuant to 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221, the owner or operator of that stationary source must obtain an operating permit. The fees for such an operating permit are as follows:***

***(a) Permit for a stationary source subject to the program for the prevention of significant deterioration of air quality ..... \$50,000***

***(b) ~~Significant revision~~ Major modification of a permit for a stationary source subject to the program for the prevention of significant deterioration of air quality \$50,000***

***An applicant must pay the entire fee when he submits an application to the director.***

3. Except as otherwise provided in this subsection, the annual fee based on emissions for any stationary source is ~~\$3.75~~ \$5.60 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding year. ~~If a stationary source emitted less than 25 tons of all regulated air pollutants combined, except carbon monoxide, during the preceding calendar year, the holder of the operating permit is exempt from the fee required by this subsection for that stationary source.~~

~~3.~~ 4. To determine the fee set forth in subsection ~~2.~~ 3:

(a) Emissions must be calculated using:

(1) The emission unit's actual operating hours, rates of production and in-place control equipment;

(2) The types of materials processed, stored or combusted; and

(3) Data from:

(I) A test for emissions compliance;

(II) A continuous emission monitor;

(III) The most recently published issue of "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP-42; or

(IV) Other emission factors or methods which the director has validated; or

(b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

~~4.~~ 5. ***The annual fee for maintenance of a stationary source is:***

***(a) For a Class I source ..... \$12,500***

***(b) For a Class II source that has the potential to emit 50 tons or more per year of any one regulated air pollutant except carbon monoxide ..... 3,000***

***(c) For a Class II source that has the potential to emit 25 tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide  
..... 1,000***

***(d) For a Class II source that has the potential to emit less than 25 tons per year of any one regulated air pollutant except carbon monoxide ..... 250***

***(e) For a surface area disturbance permit ..... 250***

6. The department shall collect all fees required ~~by subsection 2 no~~ pursuant to subsections 3 and 5 not later than July 1 of each year.

~~5. The fee required by subsection 2 is~~

**7. *The fees required pursuant to subsections 3 and 5 are*** due and payable to the "Nevada State Treasurer, Environmental Protection" within 45 days after the date of the invoice.

**Section 3.** NAC 445B.331 is hereby amended to read as follows:

445B.331 1. The fee for the replacement of a lost or damaged operating permit is \$200.

2. The fee for a request for a change of the location of an emission unit is ~~+\$50~~ **\$100**. Such a request must be made in writing to the director and submitted with the fee for each operating permit at least 10 days before the commencement of the operation of the emission unit at the new location. An owner or operator must not operate the emission unit at the new location until the director approves the location.

**Section 4. *Notwithstanding the provisions of NAC 445B.327, for the fees required pursuant to subsections 3 and 5 of NAC 445B.327 that are due in 1999, the department may collect half of the fees not later than July 1, 1999, and the remaining fees not later than January 30, 2000.***

END OF PETITION 1999-03